

# COMMISSION HISTORIES

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Seventy-six years ago, the Missouri House and Senate differed greatly in the equality of their district populations. Among upper state chambers throughout the nation, the Missouri Senate was one of the most equitably apportioned. This was due to the procedures mandated in the 1945 state constitution. The Missouri House of Representatives was one of the least equitably apportioned lower state chambers in the country, because, although the 1945 constitution provided more seats for counties with larger populations, it guaranteed at least one state House seat for every Missouri county regardless of population.

## SENATE

Early Commissions. The Missouri constitution of 1945 established a bipartisan commission system for apportioning the state Senate based on population. Under this system, the Democratic and Republican state central committees both submitted lists of ten proposed nominees to compose the ten-member commission. The Governor then selected five from each parties list. The first Senatorial Apportionment Commission would have been appointed by Governor Phil M. Donnelly. At least seven votes were required for commission approval of a Senate redistricting plan. If agreement was not reached in six months, the task of redistricting was assigned to the Commissioners of the Missouri Supreme Court, a group of full-time professionals who assisted the Supreme Court in deciding cases.

The commission procedure was used fairly successfully in 1945, 1951, and 1961, with the Senatorial Apportionment Commission adopting a plan each time.

In determining districts, the constitution allowed the Senatorial Apportionment Commission a variance in district population of 25 percent from the average population. The Commission had a tendency to draw more populous urban and less populous rural seats, which resulted in a slight urban under-representation. While the 25 percent variance seems high by today's standards, the 1951 Commission failed to meet even that. Paul Preisler, a Washington University biochemistry professor, brought suit challenging the 1951 districts in St. Louis City. In 1955, the Missouri Supreme Court upheld Preisler's challenge and ordered the St. Louis Board of Election Commissioners to adjust the lines. Another constitutional violation occurred after the 1961 apportionment, with a Kansas City district being 26.2 percent larger than the average, but in this case no legal challenge was raised.

In the wake of the 1964 Reynolds v. Sims ruling, a federal district court in Kansas City held that the apportionment of both houses of the Missouri legislature violated the one person-one vote rule. A new Senatorial Apportionment Commission was established to redraw the Senate districts, and a redistricting plan was delivered to the Secretary of State in September 1965. The largest variance in any district was five percent. In order to achieve this level of equality, however, the Commission had split two counties between two Senate districts, which was forbidden under the provisions of the 1945 state constitution. This constitutional barrier was eliminated by the passage on January 14, 1966 of an amendment to the state constitution allowing counties to be divided between two Senatorial districts. A special three-judge federal court subsequently held that the Senate redistricting plan was valid, and the new districts were used for the 1966 elections.

The Senate bipartisan redistricting procedure worked well again in 1971. However, one district exceeded the population norm by five percent, giving Paul Preisler grounds to challenge the entire plan. A state circuit court upheld Preisler's challenge, but the Missouri Supreme Court overturned that ruling and upheld the Senate districts.

1981 Commission. On March 25, 1981, Governor Kit Bond appointed the Senate Apportionment Commission. It held its first organizational meeting in the Capitol on April 11, electing, by coin toss, a Republican Chairperson and Democratic Vice-Chairperson and Secretary. The Commission set three public hearing dates, which were held, respectively, in Clayton, Independence, and Jefferson City in early May.

The Commission held several public bipartisan work sessions, but was unable to reach agreement on a tentative Senate Apportionment plan. The Commission adjourned on September 6. This marked the first time a Senate Commission failed to reach agreement.

The Missouri Supreme Court appointed a six-member Appellate Apportionment Commission (AAC) on September 28, 1981. After three public hearings and several executive work sessions the AAC agreed upon and filed, on November 16, a final plan of maps and populations with the Secretary of State. The plan had an overall variance of 5.9 percent.

1991 Commission. On March 21, 1991, Governor John Ashcroft appointed the ten-member Senate Apportionment Commission (SAC). The Commission held its first organizational meeting in the Capitol on April 8, electing officers and setting three public hearing dates, which were held on May 1, 2, and 3 in Jefferson City, St. Louis, and Kansas City.

After many public and executive work sessions, the SAC also failed to reach agreement on a new Senate district plan. Its last meeting was July 20, 1991.

On September 24, 1991, the Missouri Supreme Court appointed a six-member Appellate Apportionment Commission (AAC). The AAC held one public hearing on October 21 and several executive work sessions. It filed a final plan with the Secretary of State on December 20, 1991. The ideal 1990 population of Missouri Senate Districts was 150,502. The difference in population between the largest district (#29) and the smallest district (#23) was 12,673 persons, yielding an overall variance of 8.4 percent.

2001 Commission. Governor Bob Holden appointed commissioners to the Senate Apportionment Commission (SAC) on March 28, 2001. The commissioners met in Jefferson City on April 14 to establish a Chairperson, Vice Chairperson, and Secretary. In addition to electing officers, the SAC established that public hearings were to be held in St Louis on May 21, Springfield on May 22, and Kansas City on May 23, 2001, respectively.

After five months of intense work to redraw the state Senate districts the SAC filed a letter with the Secretary of State indicating that no tentative plan could be agreed upon on August 28, 2001. As a result, the state Supreme Court appointed a six-member Appellate Apportionment Commission (AAC) on September 5, 2001. The AAC agreed upon a final plan on December 13, 2001 of said year. The ideal

population of Missouri Senate Districts was 164,565 in 2000. The difference in population between the largest district (#6) and the smallest district (#3) was 10,763 persons, yielding a 6.8% overall variance.

2010 Commission. Governor Jay Nixon appointed the Senate Apportionment Commission (SAC) on March 18, 2011. The Commissioners met for the first time on April 5, 2011 in Jefferson City to establish a Chairperson, Vice Chairperson, and Secretary. In addition to electing officers, the SAC established that public hearings were to be held in Jefferson City on April 28, Springfield on May 23, Kansas City on May 24, and St Louis on May 25, 2011, respectively.

After five months of work to redraw the Missouri Senate districts the Commission filed a letter on August 16, 2011 with the Secretary of State indicating that no tentative plan could be agreed upon. The Missouri Supreme Court, then appointed six Appellate justices to the Appellate Apportionment Commission (AAC) on September 8, 2011. The AAC filed a plan on November 30, 2011 and again on December 9, 2011.

Molly Teichman filed suit (Molly TEICHMAN, Relator, v. Robin CARNAHAN ) directly with the Missouri Supreme Court challenging the 2011 Senate Districts, claiming the first plan filed by the AAC was unconstitutional because it unnecessarily crossed county lines in violation of Article III, Section 7 of the Missouri Constitution and that the second filing was invalid because the AAC had overstepped the authority granted within the Missouri Constitution by filing a second plan. The Missouri Supreme Court ruled in favor of the challenge on January 17, 2012 and ordered the Senate redistricting process to begin anew.

Governor Nixon appointed the second Senate Apportionment Commission on January 31, 2012. The first meeting of the second SAC was on February 18, 2012 in Jefferson City to establish a Chairperson, Vice Chairperson, and Secretary. The commission then held public hearings in Jefferson City on February 19, Kansas City on February 20, and St Louis on February 21, 2012. The Commission filed a plan on March 12, 2012. The difference in population between the largest district (#032) and the smallest district (#007) was 14,966 persons, yielding a 8.5% overall variance.

## HOUSE OF REPRESENTATIVES

Early Commissions. The various federal court apportionment rulings of the 1960s required constitutional changes for apportionment of the Missouri House. Prior to 1964, the state constitution had contained a formula dictating the number of seats for each county and requiring the local body to draw lines within the county if the county was entitled to more than one seat.

In response to the invalidation of its districts, the 73<sup>rd</sup> General Assembly (1965) proposed an amendment to the state constitution that would allow the General Assembly to apportion the House while preserving the bipartisan commission system for Senate redistricting. Anticipating voter approval, the House had developed a plan to apportion itself that would have gone into effect with adoption of the amendment. However, the amendment was rejected by the voters. Under considerable pressure from the Governor, the General Assembly agreed to a Bipartisan Redistricting Commission for the House roughly similar to that already being used for the state Senate. The proposed constitutional amendment was ratified by the Missouri electorate in January 1966.

The House redistricting structure differed from the Senate structure in two important ways; the number of members was twenty instead of ten, and two nominations were made by each of the ten Republican

and ten Democratic Congressional District committees. The Governor then selected one of the two nominees submitted by each committee. As with the Senatorial Apportionment Commission, a seven-tenths majority of the House Apportionment Commission (HAC) was required to approve a redistricting plan, and the task would be assigned to the Commissioners of the Missouri Supreme Court if the bipartisan redistricting commission could not agree on a plan.

The HAC was formed in 1966 and quickly adopted a plan that was somewhat similar to the plan laboriously developed earlier by the Missouri House. This plan was used for the 1966, 1968, and 1970 elections.

The 1971 HAC was much less successful, however. The Commission promptly, and hopelessly, bogged down over the question of whether one chairman or two co-chairman should be selected. The question was never resolved, and the task of redistricting fell by default to the Commissioners of the Missouri Supreme Court. This body submitted a plan to the Secretary of State on September 7, 1971, in which the most variant district exceeded the population norm by only 1.3 percent.

1981 Commission. On March 27, 1981, Governor Bond appointed the House Apportionment Commission (HAC). The HAC held its first organizational meeting in the Capitol on April 14, electing by the flip of a coin, a Republican Chairperson and Democratic Vice Chairperson and Secretary. The Commission set three public hearing dates, which were held, respectively in Kansas City, St. Louis, and Jefferson City in late May.

After several public and executive work sessions over the next three months, the House Commission agreed upon and filed, on August 26, a tentative plan of maps and populations with the Secretary of State.

On September 4 in the Capitol, the Commission heard public testimony on the tentative plan. Nineteen of the twenty Commissioners agreed upon and filed a final plan with the Secretary of State on September 25. The plan had an overall variance of 9.4 percent.

1991 Commission. On March 21, 1991, Governor Ashcroft appointed the eighteen-member House Apportionment Commission (HAC). The Commission held its first organizational meeting in the Capitol on April 8, elected its officers, and set three public hearing dates for May 20, 21, and 22 which were held, respectively, in St. Louis, Kansas City, and Springfield.

The HAC held several public and executive work sessions. It reached agreement on a tentative House District plan and filed the plan with the Secretary of State on August 21. After three public hearings in St. Louis, St. Joseph, and Springfield over the next thirty days, thirteen of the eighteen members agreed to and filed a final plan with the Secretary of State on September 20, 1991. The ideal 1990 population of Missouri House districts was 31,393. The difference in population between the largest (#136) and the smallest district (#131) was 2,813 persons. This gave an overall plan variance of 9.0 percent.

Even as the gubernatorial appointed Senate Apportionment Commissions were unsuccessful in redrawing the state's 34 Senate districts in 1981 and 1991, the larger House Apportionment Commissions succeeded in redrawing the state's 163 House districts in both 1981 and 1991.

2001 Commission. Governor Holden appointed the House commissioners on March 28, 2001. The House Apportionment Commission (HAC) held its first organizational meeting on April 14 of that year in Jefferson City in the House Lounge of the State Capitol building. During this meeting officers were elected and public hearing dates were established. Public hearings were then held one day each in St. Louis, Springfield, and Kansas City on May 21, 22, and 23.

Like the 2001 Senate Commission, the 2001 House Commission was also unable to reach agreement on a tentative plan by the August 28 deadline. As a result the State Supreme Court appointed a six-member Appellate Apportionment Commission (AAC) on September 5, 2001. The judges met and agreed on a final plan which was filed with the Secretary of State of December 13, 2001. The ideal 2000 population of Missouri House districts was 34,326. The difference in population between the largest (#35) and the smallest (#140) was 2,069 persons, yielding a 6.0% overall variance.

2010 Commission. Governor Jay Nixon appointed the House Apportionment Commission on March 18, 2011. The Commissioners met in Jefferson City on April 5, 2011 to establish a Chairperson, Vice Chairperson, and Secretary. In addition to electing officers, the Commission established that public hearings were to be held in Jefferson City on April 28, Springfield on May 23, Kansas City on May 24, and St Louis on May 25, 2011, respectively.

The 2010 House Commission was also unable to reach agreement on a tentative plan by the August 18 deadline. As a result the State Supreme Court appointed six-members to the Appellate Apportionment Commission (AAC) on September 8, 2011. The judges met and agreed on a final plan which was filed with the Secretary of State of November 30, 2011. The ideal 2010 population of Missouri House districts was 36,742. The difference in population between the largest (#063) and the smallest (#004) was 2,867 persons, yielding a 7.8% overall variance.

## Commission Filing History

### *Missouri Senate*

Year	Apportionment Commissions	Appellate Commissions	2 <sup>nd</sup> Apportionment Commission
1945	X		
1951	X		
1961	X		
1965*	X		
1971	X		
1981		X	
1991		X	
2001		X	
2012			X
Senate Process Total	5	3	1

## Commission Filing History (continued)

### Missouri House

Year	Apportionment Commissions	Appellate Commissions	2 <sup>nd</sup> Apportionment Commission
1966	X		
1971		X	
1981	X		
1991	X		
2001		X	
2011		X	
House Process Total	3	3	0

The X indicates which commission filed the final approved plan with the Secretary of State in that given redistricting cycle. \*1964 *Reynolds v Sims* ruling required the districts to be redrawn. Since the enactment of the Voting Rights Act of 1965 with its more stringent requirement of a balanced population, there has been a 50/50 chance that the citizens' commissions will come to agreement and file a plan with the Secretary of State.

**The Commission Process Going Forward** There were two Missouri constitutional amendments that passed following the 2010 redistricting cycle; one in 2018 and another in 2020. The amendments altered the redistricting process as it existed from the mid-1940s through the 2010 cycle.

Amendment 1 was a voter initiated petition which passed on November 6, 2018 and created the position of non-partisan state demographer (NPSD) which was given the authority to draw the Missouri House and Senate districts. The Amendment also defined a specific criteria for the NPSD to follow when drawing the new districts and changed the size and scope of the two commissions. The commissions' authority would have been limited to overruling portions of the NPSD's plan with a vote of 70% of members. Amendment 1 passed with the approval of 62.021% of voters, with a total of 2,368,706 votes cast on the amendment.

Amendment 3 was a joint resolution of the General Assembly (SJR 38, 2020) and passed on November 3, 2020 eliminating the NPSD position. The amendment restored the duty of drawing new district to the commissions, altered and reordered the criteria used to draw districts as outlined in Amendment 1, changed the name of each commission and changed the size of both to 20 members, each (based upon Missouri's then U.S. Congressional membership of eight). Amendment 3 passed with a voter approval rate of 51.013% of voters, with a total of 2,919,861 votes cast on the amendment. An additional 551,155 persons voted on Amendment 3 compared to Amendment 1, and the initiative carried by 59,145 votes.